

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 1

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-41-3-2, AS AMENDED BY P.L.189-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **In enacting this section, the general assembly finds and declares that it is the policy of this state to recognize the unique character of a citizen's home and to ensure that a citizen feels secure in his or her own home against unlawful intrusion by another individual or a public servant. By reaffirming the long standing right of a citizen to protect his or her home against unlawful intrusion, however, the general assembly does not intend to diminish in any way the other robust self defense rights that citizens of this state have always enjoyed. Accordingly, the general assembly also finds and declares that it is the policy of this state that people have a right to defend themselves and third parties from physical harm and crime. The purpose of this section is to provide the citizens of this state with a lawful means of carrying out this policy.**

(b) **As used in this section, "public servant" means a person described in IC 35-41-1-17, IC 35-31.5-2-129, or IC 35-31.5-2-185.**

(c) **A person is justified in using reasonable force against another any other person to protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force. However, a person:**

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(1) is justified in using deadly force; and

(2) does not have a duty to retreat;

if the person reasonably believes that that force is necessary to prevent serious bodily injury to the person or a third person or the commission of a forcible felony. No person in this state shall be placed in legal jeopardy of any kind whatsoever for protecting the person or a third person by reasonable means necessary.

~~(b)~~ **(d)** A person:

(1) is justified in using reasonable force, including deadly force, against ~~another~~ **any other** person; and

(2) does not have a duty to retreat;

if the person reasonably believes that the force is necessary to prevent or terminate the other person's unlawful entry of or attack on the person's dwelling, curtilage, or occupied motor vehicle.

~~(c)~~ **(e)** With respect to property other than a dwelling, curtilage, or an occupied motor vehicle, a person is justified in using reasonable force against ~~another~~ **any other** person if the person reasonably believes that the force is necessary to immediately prevent or terminate the other person's trespass on or criminal interference with property lawfully in the person's possession, lawfully in possession of a member of the person's immediate family, or belonging to a person whose property the person has authority to protect. However, a person:

(1) is justified in using deadly force; and

(2) does not have a duty to retreat;

only if that force is justified under subsection ~~(a)~~ **(c)**.

~~(d)~~ **(f)** A person is justified in using reasonable force, including deadly force, against ~~another~~ **any other** person and does not have a duty to retreat if the person reasonably believes that the force is necessary to prevent or stop the other person from hijacking, attempting to hijack, or otherwise seizing or attempting to seize unlawful control of an aircraft in flight. For purposes of this subsection, an aircraft is considered to be in flight while the aircraft is:

(1) on the ground in Indiana:

(A) after the doors of the aircraft are closed for takeoff; and

(B) until the aircraft takes off;

(2) in the airspace above Indiana; or

(3) on the ground in Indiana:

(A) after the aircraft lands; and

(B) before the doors of the aircraft are opened after landing.

~~(e)~~ **(g)** Notwithstanding subsections ~~(a)~~, ~~(b)~~ and ~~(e)~~, **(c) through (e)**, a person is not justified in using force if:

(1) the person is committing or is escaping after the commission

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of a crime;

(2) the person provokes unlawful action by another person with intent to cause bodily injury to the other person; or

(3) the person has entered into combat with another person or is the initial aggressor unless the person withdraws from the encounter and communicates to the other person the intent to do so and the other person nevertheless continues or threatens to continue unlawful action.

(h) Notwithstanding subsection ~~(d)~~, **(f)**, a person is not justified in using force if the person:

(1) is committing, or is escaping after the commission of, a crime;

(2) provokes unlawful action by another person, with intent to cause bodily injury to the other person; or

(3) continues to combat another person after the other person withdraws from the encounter and communicates the other person's intent to stop hijacking, attempting to hijack, or otherwise seizing or attempting to seize unlawful control of an aircraft in flight.

(i) A person is justified in using reasonable force against a public servant if the person reasonably believes the force is necessary to:

(1) protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force;

(2) prevent or terminate the public servant's unlawful entry of or attack on the person's dwelling, curtilage, or occupied motor vehicle; or

(3) prevent or terminate the public servant's unlawful trespass on or criminal interference with property lawfully in the person's possession, lawfully in possession of a member of the person's immediate family, or belonging to a person whose property the person has authority to protect.

(j) Notwithstanding subsection (i), a person is not justified in using force against a public servant if:

(1) the person is committing or is escaping after the commission of a crime;

(2) the person provokes action by the public servant with intent to cause bodily injury to the public servant;

(3) the person has entered into combat with the public servant or is the initial aggressor, unless the person withdraws from the encounter and communicates to the public servant the intent to do so and the public servant nevertheless continues or threatens to continue unlawful action; or



(4) the person reasonably believes the public servant is:

(A) acting lawfully; or

(B) engaged in the lawful execution of the public servant's official duties.

(k) A person is not justified in using deadly force against a public servant whom the person knows or reasonably should know is a public servant unless:

(1) the person reasonably believes that the public servant is:

(A) acting unlawfully; or

(B) not engaged in the execution of the public servant's official duties; and

(2) the force is reasonably necessary to prevent serious bodily injury to the person or a third person.

SECTION 2. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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